

**Federal
Maritime
Commission**

FW: FMC

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To: "secretary@fmc.gov" <secretary@fmc.gov>
Cc: Michael Moneck <mmoneck@fmc.gov>

Mon, Apr 29, 2013 at 2:06 PM

To Karen V. Gregory, Secretary

FMC

One original and five copies of the comments by Unaffiliated Shippers of America have today been posted to FMC to your attention. A copy is attached hereto.


Regards

Unaffiliated Shippers of America, A shippers association

Bengt Henriksen, Manager

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 **FMC Docket 11-22 4-12-2013.pdf**
83K

Docket no. 11-22,

**Comments on Non-Vessel-Operating Common Carrier Negotiated Rate Agreements:
Tariff Publication Exemption;**

The undersigned on behalf of Unaffiliated Shippers of America submit their comments to the extensive discussions centered on whether Foreign Based unlicensed NVOCCs should be granted the same exemption as now granted to licensed NVOCCs.

In summary, the following comments will show why the concerns expressed by commission staff were correct and should lead to FMC not allowing un-licensed foreign based NVOCCs any exemption from the present requirements of the US Shipping Act of 1984.

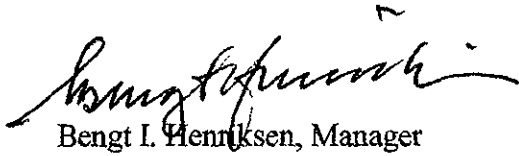
While China recently are attempting to eliminate or reduce instances of corruption in General and there will undoubtedly be instances where corruption in the transportation sector is officially attacked by the China Government Authorities, there are numerous examples of un-licensed China based NVOCCs acting in manners which reflects extortion against Licensed US based NVOCCs.

An example to illustrate:

A licensed US based NVOCC, Global Shipping Partners, of 20 S. Lively Blvd #100, Elk Grove Village IL 60007, receives an unsolicited email from a foreign based NVOCC offering a particular attractive rate on trade lane Shanghai/Chicago. The US based NVOCC confirms the business and instructs the foreign based NVOCC (it turns out the entity is un-licensed in China) to use the HBL of the US entity and gives clear and correct instructions as to how to move a particular high value container legally to the US based NVOCC.

The China NVOCC, Seawell International Logistics, co-loads the container with a range of un-licensed and licensed foreign based NVOCCs but do not use the US based NVOCC's HBL and instead ship the containers using the true shipper as shipper and the true consignee as consignee and the US based NVO as Notify Party on an illegal HBL of Seawell International Logistics. The US based licensed NVO pays the freight to the foreign based un-licensed NVOCC, and then receives a notice of Penalty \$500/day for late payment total \$5000 which was not supported by any tariff on file with FMC. The US based Licensed NVO is at risk of losing his clients of several years, and may have to pay these un-tariff penalties to secure release of the container to his clients. The case is reviewed by FMC's office of Dispute Resolution and it is clear that the ISF filing NVOCC is in the US jurisdiction and FMC is able to step into the outright extortion case and reach a solution which was very costly to the US based licensed NVOCC but the container was released.

The vehicle of the Negotiated Rate Agreement should NOT be available to un-licensed foreign based NVOCCs nor for that matter to a licensed foreign based NVOCC except if there is a valid bonded tariff on file with FMC.

A handwritten signature in black ink, appearing to read "Bengt I. Henriksen". The signature is fluid and cursive, with a small mark above the "h".

Bengt I. Henriksen, Manager

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